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OFFICE OF PETITIONS

In re Application of :
David M. Schut :
Application No. 09/866,059 :
Filed: May 25, 2001 :
Attorney Docket No. 1000592-1 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 7, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (1).

Unfortunately, while the petition states that a reply to the October 23, 2003 Office action accompanies the instant petition, no such reply was found. Accordingly, petitioner must submit the reply to the outstanding Office action to revive the instant application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By fax: (703) 872-9306
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (703) 305-8680.



Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Copy of October 23, 2003 Office action